

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

**GARY JOSEPH LATHAM**  
Petitioner,

v.

**ROLAND COLSON, WARDEN**  
Respondent.

|  
|  
|  
|  
|  
|  
|

**No. 2:12-0097**  
**Judge Sharp**

**ORDER**

On February 13, 2013, an order (Docket Entry No. 21) was entered dismissing the instant § 2254 habeas corpus action. Since the entry of this order, the petitioner has filed a Notice of Appeal (Docket Entry No. 45), a Motion to Forward Record (Docket Entry No. 46), and a Motion to Prepare Record on Appeal (Docket Entry No. 47).

By rule, the Clerk of Court is charged with assembling and forwarding the record of this matter to the appellate court. *See* Rule Nos. 10 and 11, Fed. R. App. P. Therefore, the petitioner's Motions to prepare and forward the record are deemed to be MOOT.

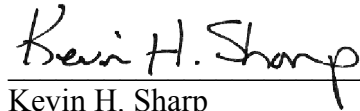
When a Notice of Appeal is filed in a § 2254 habeas corpus action, the district court is obliged to determine the petitioner's liability for the appellate filing fee and to ascertain whether it would be appropriate to grant the petitioner a certificate of appealability.

In the order of dismissal, the Court has already determined that a certificate of appealability should not issue in this instance. Castro v. United States, 310 F.3d 900, 901-902 (6<sup>th</sup> Cir. 2002). However, the petitioner has yet to either pay the fee required for the filing of his appeal or submit an application to proceed on appeal in forma pauperis.

Accordingly, the petitioner is hereby GRANTED thirty (30) days from the date of entry of this order on the docket in which to submit to the Clerk of this Court either the full appellate filing fee of four hundred fifty five dollars (\$455) or an application to proceed on appeal in forma pauperis.

The Clerk is directed to forward a copy of this order to the Clerk of the Court of Appeals.

It is so ORDERED.

  
\_\_\_\_\_  
Kevin H. Sharp  
United States District Judge